

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

The Financial Oversight and Management Board for
Puerto Rico,

as representative of

The Commonwealth of Puerto Rico, *et al.*

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

The Financial Oversight and Management Board for
Puerto Rico,

as representative of

Puerto Rico Sales Tax Financing Corporation
(COFINA),

Debtor.

PROMESA
Title III

No. 17 BK 3284-LTS

**THE PUERTO RICO FUNDS' RESPONSE TO
PUERTO RICO SALES TAX FINANCING CORPORATION'S FIFTEENTH OMNIBUS
OBJECTION (NON-SUBSTANTIVE) TO DUPLICATE BOND CLAIMS**

¹ The Debtors in these title III cases, along with each Debtor's respective title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474), and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780) (Last Four Digits of Federal Tax ID: 3747).

Certain Puerto-Rico based mutual funds (collectively, the “Puerto Rico Funds”),² hereby submit this response (the “Response”) to *Puerto Rico Sales Tax Financing Corporation’s Fifteenth Omnibus Objection (Non-Substantive) to Duplicate Bond Claims* [Docket No. 4419] (the “Omnibus Objection”),³ and respectfully state as follows:

BACKGROUND

1. The Puerto Rico Funds are (i) holders of over \$600 million of COFINA Bonds, (ii) parties to the Amended and Restated Plan Support Agreement, dated as of September 20, 2018 (the “PSA”),⁴ (iii) Consummation Cost Parties under the proposed *Second Amended Title III Plan of Adjustment of Puerto Rico Sales Tax Financing Corporation* (the “Plan”) [Docket No. 4392], and (iv) parties to litigation concerning COFINA’s property rights both prior to and during COFINA’s Title III Case.

2. In accordance with and as a party to the PSA, the Puerto Rico Funds have agreed to vote to accept and support the Plan as proposed.

3. On January 16, 2018, the Debtors filed their *Motion for Order (A) Establishing Deadlines and Procedures for Filing Proofs of Claim and (B) Approving Form and Manner Notice Thereof* [Docket No. 2255] (the “Bar Date Motion”). The Court granted the relief requested in the Bar Date Motion through its *Order (A) Establishing Deadlines and Procedures for Filing Proofs*

² The Puerto Rico Funds subject to the Omnibus Objection are the following Puerto Rico-based funds: Puerto Rico AAA Portfolio Bond Fund, Inc.; Puerto Rico AAA Portfolio Bond Fund II, Inc.; Puerto Rico AAA Portfolio Target Maturity Fund, Inc.; Puerto Rico Fixed Income Fund II, Inc.; Puerto Rico Fixed Income Fund III, Inc.; Puerto Rico Fixed Income Fund IV, Inc.; Puerto Rico Fixed Income Fund V, Inc.; Puerto Rico Fixed Income Fund VI, Inc.; Puerto Rico Fixed Income Funds Inc.; Puerto Rico GNMA & U.S. Government Target Maturity Fund, Inc.; Puerto Rico Investors Bond Fund I; Puerto Rico Investors Tax-Free Fund, Inc.; Puerto Rico Investors Tax-Free Fund II, Inc.; Puerto Rico Investors Tax-Free Fund III, Inc.; Puerto Rico Investors Tax-Free Fund IV, Inc.; Puerto Rico Investors Tax-Free Fund V, Inc.; Puerto Rico Investors Tax-Free Fund VI, Inc.; Puerto Rico Mortgage-Backed & US Government Securities Fund, Inc.

³ Capitalized terms not defined herein shall have the meanings ascribed to them in the Omnibus Objection.

⁴ A copy of the PSA is attached as Exhibit B of the *Disclosure Statement for the Second Amended Title III Plan of Adjustment of the Debts of Puerto Rico Sales Tax Financing Corporation* [Docket No. 4364].

of Claims and (B) Approving Form and Manner of Notice Thereof [Docket No. 2521] (the “Initial Bar Date Order”), which also established deadlines and procedures for filing proofs of claim in the Title III Cases.

4. The Court extended the deadline for filing proofs of claim to June 29, 2018 at 4:00 pm (Atlantic Standard Time) when it entered the *Order (A) Extending Deadlines for Filing Proofs of Claim and (B) Approving Form and Manner of Notice Thereof* [ECF No. 3160] (together with the Initial Bar Date Order the “Bar Date Orders”).

5. Pursuant to the procedures and stipulations enumerated in the Bar Date Orders, the Puerto Rico Funds filed certain proofs of claim (the “Claims”), between May 24, 2018 and June 1, 2018.⁵

6. As indenture trustee of the Bonds, Bank of New York Mellon (“BNYM”), filed Master Proofs of Claim, claim numbers 16284 (subordinate bonds) and 16760 (senior bonds), which were superseded and amended by subsequently filed proofs of claim, claim numbers 31920 (subordinate bonds) and 33139 (senior bonds).

7. On November 14, 2018, the Court entered the *Order (A) Approving Limited Omnibus Objection Procedures, (B) Waiving the Requirement of Bankruptcy Rule 3007(E)(6), (C) Granting Related Relief and (D) Directing the Debtors to File on Presentment the Form of Notice* [ECF No. 4230].

8. On December 5, 2018, the Debtors filed the Omnibus Objection, which included the following of the Puerto Rico Funds’ Claims: Claim Nos. 22752; 22450; 25709; 21341; 21297;

⁵ The claims were not filed on the same date due to technical problems experienced by Prime Clerk on the filing date.

21359; 21587; 22247; 22672; 26036; 33764; 33773; 33687; 34838; 29975; 37733; 33681; 33297; and 26629.

ARGUMENT

9. In its Omnibus Objection, COFINA alleges that the Claims of the Puerto Rico Funds are “Duplicate Bond Claims,” and that “any failure to disallow the Duplicate Bond Claims will result in the applicable claimants potentially receiving double recovery” Omnibus Objection, ¶ 16. This is simply not the case.

10. The Debtors’ argument that the Puerto Rico Funds would recover twice on their Claims is unfounded. The Plan, which the Puerto Rico Funds have committed to support in accordance with the terms of the PSA, provides that all COFINA bond claims other than those stemming from the Master Proofs of Claim filed by BNYM “shall be deemed disallowed and expunged” upon the Plan’s effective date. Plan, ¶ 21.1. This provision eliminates any concern of a possible double recovery. As such, the Puerto Rico Funds’ Claims only serve to preserve the Puerto Rico Funds’ rights *until* the Plan becomes effective and the Puerto Rico Funds receive distributions as contemplated in the PSA and Plan. Any objection by the Debtors that the Claims of the Puerto Rico Funds duplicate the Master Proofs of Claim filed by BNYM are premature and rendered moot if the Plan is confirmed and consummated.

11. In the event that the Plan is not confirmed and these proceedings return to the contentious litigation that typified COFINA’s Title III Case prior to reaching the settlement that resulted in the PSA and Plan, the Puerto Rico Funds are entitled to preserve all rights and remedies available at law and equity with respect to the Claims. Such protections were expressly agreed to by the Debtors in the PSA. See PSA, § 6.2. Therefore, the Omnibus Objection should be denied with respect to the Puerto Rico Funds’ Claims.

RESERVATION OF RIGHTS

12. The Puerto Rico Funds reserve their rights to file a supplemental and/or amended response to the Omnibus Objection should they deem it necessary to do so. The execution and filing of this Response is not and shall not be deemed: (a) a waiver or release of the Puerto Rico Funds' rights against any entity or person liable for all or any part of the Claims; (b) a waiver of any right to the subordination or recharacterization, in favor of the Puerto Rico Funds, of indebtedness or liens held by any creditors of the Debtors or any of their affiliates; (c) an election of remedies which waives or otherwise affects any other remedy; (d) a waiver of the Puerto Rico Funds' rights to amend or supplement its proofs of claim or this Response; (e) or a waiver to receive distributions under the Plan with respect to the Master Proofs of Claim or otherwise.

CONCLUSION

For the foregoing reasons, the Puerto Rico Funds respectfully request that the Court deny the Omnibus Objection as it pertains to the Puerto Rico Funds' Claims.

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will notify case participants.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, January 4, 2019.

By:

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